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CER 127564

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MRRC000195

February 14, 1990
Page 2

We have directed this letter to several addresses because of our uncertainty as to the status of GIT Liquidation Trust and as to what parties are represented by which counsel. We understand that the Company was dissolved on December 30, 1986, as was its sole shareholder, GIT Industries, Inc. We understand that Messrs. Cohen, Weissman, and Kreitman were the shareholders of GIT Industries, Inc., and were, as of November 16, 1989, the beneficiaries of the GIT Liquidation Trust. We understand that Stroock & Stroock & Lavan has represented one or more of the above parties, and that Mr. Edelman has represented Mr. Cohen.

I. Laskin Site

The first environmental claim addressed by this letter arises from the so-called Laskin site in Jefferson, Ohio. This is a site formerly used for processing waste oils that is being cleaned up under the authority of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA" or "Superfund"). In the July 24, 1986 purchase agreement, the sellers expressly retained all liability in connection with the Laskin site beyond \$75,000.

CER 127565

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GIT Industries, Inc. or its successors in interest have received repeated notice of the status of this site and of its need to act. By letter dated August 8, 1989, Ron Adams of

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February 14, 1990
Page 3

Rubatex Corporation notified Howard Roberts of GIT Industries that total site cleanup costs recently had been projected to reach \$20 million to \$60 million; that the Company might be able to settle out on a de minimis basis, for \$184,561; and that GIT Industries retained any liability above \$75,000. On September 25, 1989, Ken Hawkins of Empire Chem notified Mr. Roberts that it now appeared that the Company would not be eligible for a de minimis settlement, and that its liability would be considerably greater than \$75,000, again with a reminder about GIT's retained liability. That letter enclosed copies of correspondence explaining certain settlement options that were open. On October 6, 1989, Michael Weigand telecopied to Martin Baker of Stroock & Stroock & Lavan documents relevant to evaluating the Company's liability at the Laskin site.

On November 16, 1989, Morris Weissman transmitted to Empire Chem the U.S. government complaint that apparently had been served on him, with a draft affidavit by Mr. Weissman regarding manufacturing processes at the Barberton, Ohio facility. Mr. Weissman's letter suggested that Empire Chem defend the complaint.

CER 127566

MRRRC000197

On December 13 and 19, 1989 and on January 5, 1990, I spoke with Martin Baker and Madelaine Berg at Stroock & Stroock & Lavan, advising them that the Company's liability for the Laskin site could exceed \$75,000 and suggesting that GIT or its

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February 14, 1990
Page 4

successors immediately assume the defense of the action. I stated that Empire Chem offered an immediate lump-sum payout of the unexpended balance of the \$75,000 if GIT did assume the defense. This offer was rejected by Ms. Berg on January 5, 1990.

Later that day, I sent a package of information to Elliot Eder of the U.S. Department of Justice regarding the 1986 sale of assets and subsequent events, with a copy to Ms. Berg. On January 11, Ms. Berg sent a letter to Mr. Eder in response that did not address whether the Company was liable under CERCLA for the Laskin site, but which tacitly implied that the Company would take no action to defend against the United States lawsuit.

The refusal to date by any of GIT Industries, GIT Liquidating Trust, or the Trust's beneficiaries to honor the express terms of the 1986 purchase agreement is shocking. The former shareholders of the now-dissolved GIT Industries, Inc. clearly are obliged to honor the contractual obligations of GIT and the Company, since they dissolved those corporations and received the proceeds with full knowledge of the outstanding Laskin liability, which is referenced in the 1986 purchase agreement. Either the Division or the U.S. Department of Justice could trace those distributed assets and hold those who received them liable for the CERCLA obligations of the Company.

CER 127567

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February 14, 1990
Page 5

The Laskin site calls for immediate action. Additional filings in the United States lawsuit have been stayed until March 19, 1990, to facilitate settlement discussions. According to materials that we have received, it may be possible to settle the Company's liability to the government for an amount on the order of \$150,000 to \$250,000. However, such a settlement would not necessarily protect the Company or its successors from claims that may be brought by other parties for contribution to cleanup costs that they have incurred and will incur, which costs will be many times greater than the government's costs.

Representatives of the GIT Liquidating Trust or its beneficiaries or both should assume the defense of the Laskin lawsuit and immediately consider entering into an appropriate settlement. The Division will take appropriate steps to minimize its exposure in this matter. If a satisfactory exposure is not received soon, the Division may be forced to bring suit against the GIT Liquidating Trust or its beneficiaries or take other actions that may prejudice your rights.

CER 127568

II. Sauget Sites

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The Sauget Sites matter involves two or more areas in Sauget, Illinois allegedly contaminated in part from operations of a facility there operated by the Company. One of the sites in question is a portion of Dead Creek referred to as Area B, where

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February 14, 1990
Page 6

the creek bed allegedly has been contaminated by discharges from the facility when it was operated by a corporation later acquired by the Company. The other site is a now-inactive wastewater treatment facility used by the Company and others, allegedly contaminated by their effluent, referred to now as Site O. We are not aware of any evidence or allegation that any of the sites involved have been contaminated by any actions or omissions of the Division.

There are several pending proceedings arising from these sites. First, the Illinois Attorney General has demanded the preparation of a Remedial Investigation report and a Feasibility Study ("RI/FS") for all of the Sauget Sites, broken down into two subgroups, Area 1 and Area 2. The next meeting to discuss a response to that demand is planned for mid or late March. Second, substantial work has already begun at Site O (which is part of Area 2), funded by the Division and others, and a meeting to discuss that work and possible expansions of it is set for March 9. Third, the U.S. Environmental Protection Agency ("EPA") on December 27, 1989 demanded that "Midwest Rubber Reclaiming" and three other parties pay for almost \$50,000 of expenses incurred by EPA to address contamination in Dead Creek.

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At the time of the closing of the asset sale, September 29, 1986, the Company was well aware of the potential liabilities arising from these sites, but did not disclose them to the

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CER 127569

February 14, 1990
Page 7

purchaser. The Company's awareness of these liabilities prior to the sale of assets is demonstrated in part by memoranda describing the situation from Horace Drake to Robert Morris Weissman, dated March 31, April 23, and May 22, 1986. This suggests the possibility of at least negligent misrepresentation, and a concomitant right of recovery by the Division.

In addition, those who arranged for disposal of hazardous substances that later cause the incurrence of cleanup costs at a site may be held liable under CERCLA many years later, even if they no longer own or operate the facility in question. If the Company is liable for any of the Sauget Sites, and if (as it appears) the Company's assets were stripped away with knowledge of that potential liability, then the Division expects GIT Liquidating Trust or its beneficiaries to satisfy the Company's fair share of those liabilities.

CER 127570

As with regard to the Laskin Site, the Division will take appropriate steps to minimize its exposure in the Sauget Sites matter. The GIT Liquidating Trust or its beneficiaries or both are hereby invited to participate in settling the claims arising from these sites, and are hereby put on notice that the Division intends to hold them responsible for these liabilities.

* * * * * MRR000201

February 14, 1990

Page 2

Please contact me by _____ with your response.

Sincerely yours,

Paul Shorb

cc: Elliot Eder, U.S. Department of Justice
James L. Morgan, Illinois Office of the Attorney General
Harold G. Baker, Village of Sauget
Elizabeth Doyle, U.S. Environmental Protection Agency,
Region V

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